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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,872	07/10/2003	Rickey J. Thomas	0275Y-000703	1565
27572	7590	01/15/2008	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 828 BLOOMFIELD HILLS, MI 48303			ALIE, GHASSEM	
ART UNIT		PAPER NUMBER		
3724				
MAIL DATE		DELIVERY MODE		
01/15/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action Before the Filing of an Appeal Brief	Application No.	H THOMAS ET AL.
	10/616,872	Applicant(s)
	Examiner Ghassem Alie	Art Unit 3724
--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --		
THE REPLY FILED 21 December 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.		
<p>1. <input checked="" type="checkbox"/> The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:</p> <p>a) <input type="checkbox"/> The period for reply expires _____ months from the mailing date of the final rejection.</p> <p>b) <input checked="" type="checkbox"/> The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.</p> <p>Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).</p>		
<p>Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).</p>		
<p>NOTICE OF APPEAL</p> <p>2. <input type="checkbox"/> The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).</p>		
<p>AMENDMENTS</p> <p>3. <input checked="" type="checkbox"/> The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because</p> <p>(a) <input checked="" type="checkbox"/> They raise new issues that would require further consideration and/or search (see NOTE below);</p> <p>(b) <input type="checkbox"/> They raise the issue of new matter (see NOTE below);</p> <p>(c) <input type="checkbox"/> They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or</p> <p>(d) <input type="checkbox"/> They present additional claims without canceling a corresponding number of finally rejected claims.</p> <p>NOTE: <u>See Continuation Sheet</u>. (See 37 CFR 1.116 and 41.33(a)).</p>		
<p>4. <input type="checkbox"/> The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).</p> <p>5. <input type="checkbox"/> Applicant's reply has overcome the following rejection(s): _____.</p> <p>6. <input type="checkbox"/> Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).</p> <p>7. <input checked="" type="checkbox"/> For purposes of appeal, the proposed amendment(s): a) <input checked="" type="checkbox"/> will not be entered, or b) <input type="checkbox"/> will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.</p> <p>The status of the claim(s) is (or will be) as follows:</p> <p>Claim(s) allowed: _____.</p> <p>Claim(s) objected to: _____.</p> <p>Claim(s) rejected: <u>3, 4, 6, and 23-29</u>.</p> <p>Claim(s) withdrawn from consideration: _____.</p>		
<p>AFFIDAVIT OR OTHER EVIDENCE</p> <p>8. <input type="checkbox"/> The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).</p> <p>9. <input type="checkbox"/> The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).</p> <p>10. <input type="checkbox"/> The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.</p>		
<p>REQUEST FOR RECONSIDERATION/OTHER</p> <p>11. <input type="checkbox"/> The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____</p> <p>12. <input type="checkbox"/> Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____</p> <p>13. <input type="checkbox"/> Other: _____</p>		
 Ghassem Alie Patent Examiner Art Unit 3724		

Continuation of 3. NOTE: Applicant's amendment after final filed on 12/21/07 has not been considered. Independent claim 1 now recite, "the blade has unsupported distal end" which raise new issues and require new consideration and search. Applicant's argument that the finality of the Final action mailed on 10/31/07 has to be withdrawn since it has not been necessitated by applicant's amendment is incorrect. Claim 23 was rejected on the Non-Final rejection mailed on 03/07/07. Applicant amended claim 23 in an amendment filed on 05/11/07 in response to the Non-Final Office action mailed on 03/07/07. In view of the amendment to claim 23, claim 23 was indicated to be allowable in the Final Office action mailed on 07/17/07. After further consideration, the allowability of claim 23 was withdrawn in the Office action mailed on 10/31/07. It should be noted that the Office action mailed on 10/31/07 was made Final, since applicant has received a Non-Final action mailed on 03/07/07, before claim 23 was amended. Applicant's argument that "the amendment made on May 11, 2007 did not introduce or necessitated a new ground of rejection or alternatively, the amendment overcomes the Examiner's new ground for rejection" is not persuasive. See page 6, lines 8-10 in applicant's remark. Claim 23 was clearly amended to overcome the rejection under 35 U.S.C. 102(b) as being anticipated by Davey. Applicant admits that "amendment was made to overcome the former Examiner's placement of the plane below the hand grip portion." See page 6, lines 13-15 in applicant's remarks. In addition, amendment made to claim 23 on May 11, 2007 has changed to scope of the claim. Amended claim 23 recited "wherein said inner surface of said hand grip portion is sloped toward said blade so as to be oriented at an acute angle relative to said [first direction] second blade mounting portion." Clearly, claim 23 was amendment to clarify the orientation of the inner face of the hand grip portion with respect to the second blade mounting portion rather than the first direction. In fact, applicant argued in the amendment filed on 05/11/07 that "Davey does not disclose '...second blade mounting portion being displaced on a bottom surface of the handle ... wherein...said hand grip portion is sloped toward said blade so as to be oriented at an acute angle relative to said second blade mounting portion...' as required by currently amended claim 23." See page 9 lines 4-7 in applicant's remarks filed on 05/11/07. It is clear that claim 23 was amended in a manner that overcomes the rejection under 35 U.S.C. 102(b) as being anticipated by Davey. Applicant's argument that the former Examiner's placement of the plane could have been placed in the upper location as currently cited by the Examiner." See page 7, lines 7-9 in applicant remarks. The placement of the plane by the former Examiner was sufficient to show that the saw disclosed in Davey reads on claim 23. The current Examiner placed the plane in another location in view of the amended made to claim 23. Applicant asserts that the finality of the Final action should be withdrawn since a new reference, Suhre (U.S. Pat. No. 2,559,686), has been included in the final rejection. However, as stated above, claim 23 has been amended and the scope of claim 23 has been changed. Therefore, the new ground of rejection based on a new reference has been necessitated by amendment made to claim 23..